Statement on Introduction of the Stop Tax-Breaks for Oil Profiteering Act (STOP Act)

Mr. President, businesses like airlines, trucking companies, and heating oil distributors buy and sell oil and futures contracts because they need to do so to run their day-to-day business and hedge their risk against wild swings in oil prices like consumers saw last year.

But there are also buyers and sellers in the market – financial speculators – who are simply there to try to make a quick dollar on oil as an investment strategy. The explosion of speculators into the marketplace has distorted the oil and gas market and driven up the price of oil for everybody. When commercial businesses see fuel prices go up, they try to consume less. But when speculators see prices go up, they buy more and keep driving up demand. This distorts the normal supply-demand balance of the markets and digs a huge financial hole for average Americans.

In 2000, speculative trading in the oil futures markets accounted for 37 percent of crude oil trading on the New York Mercantile Exchange. By last summer when prices were approaching $150 a barrel, that number had grown to more than 70 percent. I don't think that's a coincidence.

There are a lot of proposals around to fix the regulatory system to prevent trading abuses. Oregon's economy really suffered from abusive energy trading by Enron, and I am all for closing trading loopholes. But my bill is aimed at something different. It is aimed at the giant financial bubble that's been created by people who are simply chasing speculative profits in the commodities markets and creating artificial demand that is driving up prices.

The legislation I am introducing today - Stop Tax-breaks for Oil Profiteering (STOP) Act of 2009 – will let some of the air out of this speculative balloon and help create a level playing field among companies participating in the commodity markets.

Under the tax code, commercial traders, those who truly need to buy, sell and hedge their purchases of oil, pay taxes on whatever profits they make on trading at the same rates as ordinary income. Speculators get a much better deal from the tax code. Some, such as pension funds or endowments, don't pay any tax whatsoever when they profit on their oil or futures investments. Others, like hedge or index funds can get lower tax rates by treating some of their trading profits as capital gains. Clearly, the deck is stacked against the businesses who really buy and use oil. And that means it's also stacked against the consumer who needs the services and products those businesses provide.

My proposal removes incentives in the tax code that make such investments attractive to both tax-exempt and tax-paying investors. It also makes everyone in the U.S. who is buying and selling oil and gas or futures contracts play by essentially the same tax rules across the board. Tax-paying entities would lose the ability to treat any of these investments as capital gains and be subject to comparable tax treatment on oil and gas investments as airlines or trucking companies or fuel distributors or other businesses that truly need to be in these markets.

Tax-exempt entities, like pension funds, would be required to pay "unrelated-business-income-tax" on their oil and gas trading gains. UBTI already exists as a well-established tax obligation for income that is not directly related to the tax exempt purpose of the organization. UBTI was created precisely to keep tax exempt organizations from competing unfairly with taxpaying businesses, which is what they are doing when they enter the commodity markets solely for investment income purposes. The bill also includes provisions that would prevent tax exempt organizations from investing in off-shore funds to try to avoid the new UBTI tax.

By focusing on tax fairness, my bill would realign the profit incentives that are currently attracting non-commercial actors to the markets. If speculators are truly in the markets and are wrecking havoc with oil and gas prices, this bill will do away with their tax subsidies and cause many to leave. It deflates the speculative balloon of artificially inflated profits that has made this investment arena so attractive.

If speculators are not a problem, then this bill will help prove the theory that the wild swings in oil prices of the past year truly can be blamed on supply and demand.

The bill would only cover the oil and natural gas markets, and related products like gasoline and diesel fuel, and be in effect for the next four years. However, after three years, it would require the Treasury Department to issue a report analyzing the impact of these changes on these markets, making recommendations on what changes to make.

Other proposals on oil speculation focus on regulation of the market or limiting the amounts of oil traders could purchase. These approaches are “top down” efforts to prevent trading abuses and financial investors from swamping the market. This bill approaches the problem from the bottom line up. Willy Sutton, the bank robber was asked why he robbed banks, to which he is said to have replied, “It’s where the money is.” And that’s why this bill focuses on the flow of financial investment funds into the oil and gas markets, it’s where the speculation is.

Mr. President, in these tough economic times, I believe consumers need protection from people who try to game the system to pad their own pockets. By putting an end to the imbalances in the tax code that currently feed oil profiteers, the STOP Act will be good for American businesses and consumers. I hope my colleagues will join me in protecting our economy and leveling the playing field in the oil and gas markets by voting in favor of the STOP Act.

I ask unanimous consent that bill be printed the record.